IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5245 OF 2005

1. Shri. Laxman Walu Ghode
2. Shri. Sunil Laxman Ghode ...Applicants
Vs.
The State of Maharashtra ...Respondent

Shri. Umesh Mankapure i/by R.V.More for the Applicants.
Shri. K.V. Saste, A.P.P. for the Respondent.

CORAM : A.S.OKA, J.
DATED : SEPTEMBER 19, 2005.

P.C.:

1. Heard the Advocate appearing for the Applicants and the learned A.P.P. for the State. The learned Advocate for the Applicants submitted that there is no direct evidence against the Applicants showing involvement of the Applicants in the offence. He submitted that the statements of witnesses Vijay and Sanjay at highest show that the deceased was last seen together with the Applicants. He submitted that the statement of the witness Sanjay cannot be relied upon as he claims to have read in the newspaper on 22nd February, 2005 regarding the alleged offence committed by the Applicants when the dead body of the deceased was recovered on 22nd February, 2005 itself. He submitted that the recovery of the clothes of the deceased at the instance of the Applicants is doubtful and in any case, the Chemical Analyser's report does not support the Applicants.

2. The learned A.P.P. submitted that the version

of the witness Vijay and Sanjay are consistent. There is evidence of last seen together against the Applicants and there is evidence of recovery of blood stained clothes of the deceased at the instance of the Applicants. He placed on record copy of the report of the Chemical Analyser. He fairly stated that so far as the report is concerned, it records that it is inconclusive so far as the blood group of the blood detected on the alleged clothes of the deceased is concerned.

3. I have considered the submissions. Perusal of the statements of Vijay and Sanjay shows that the Applicants assaulted the deceased by kicks and fist blows on the abdomen and on the back. Thereafter, the deceased was taken in autorickshaw. The wintesses have stated that subsequently they got down from the auto rickshaw and the Applicants alongwith the deceased went to Nashik. Thus, the statements of both the witnesses indicate that the deceased was last seen together with the Applicants.

4. The alleged recovery of the clothes of the deceased from the riverbed appears to be some extent doubtful as the recovery is made few days later from the river bed of a flowing river Godavari. Moreover, the result of the Chemical Analysis of the alleged bloodstains on the clothes has turned out to be

inconclusive and blood group could not be determined.

5. The Applicants have been arrested on 23rd February, 2005. Investigation has been completed and the chargesheet is already filed. There are no criminal antecedents of any Applicants. There is no direct evidence against the Applicants. The age of the Applicant No.1 is fifty-five years. Co-accused Nitin Bhikaji Nikam is enlarged on bail on a different ground. Hence, I pass the following order:

: O R D E R :

i) The Applicants shall be enlarged on bail in connection with C.R. No. 21 of 2005 registered with Niphad Police Station, District Nashik, subject to furnishing a personal bond of Rs.15,000/- each with one or two local sureties in the like amount.

ii) The Bail is granted subject to condition that the Applicants will report to the concerned Police Station on every Sunday till the conclusion of the trial.

iii) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution

evidence.

iv) The Applicants shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicants to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in the above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE